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Conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and the International Residual Mechanism for Criminal Tribunals, judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda

Report of the Advisory Committee on Administrative and Budgetary Questions

Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and the International Residual Mechanism for Criminal Tribunals, judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/68/188). During its consideration of the report, the Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 2 October 2013.

2. The report of the Secretary-General was submitted in response to General Assembly resolution 65/258, in which the Assembly decided to re-establish a three-year cycle for the review of the conditions of service and compensation for the members of the International Court of Justice and the judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, and to undertake the next comprehensive review at its sixty-eighth session. In addition, by its decision 66/556 B of 9 April 2012, the Assembly deferred until the sixty-eighth session its consideration of the recommendations on the pension schemes for the members of the Court and the judges of the Tribunals, as proposed in the report of the Secretary-General and in a related letter from the President of the International Court of Justice addressed to the President of the

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General Assembly (A/66/726). The observations and recommendations of the Advisory Committee thereon are contained in its report contained in document A/66/709.

3. The Advisory Committee notes that since the last comprehensive review and the related General Assembly resolution on this matter (resolution 65/258), a new entity has been established pursuant to Security Council resolution 1966 (2010): the International Residual Mechanism for Criminal Tribunals for Rwanda and for the Former Yugoslavia. The Residual Mechanism was established to carry out a number of essential functions of the respective criminal tribunals after the completion of their mandates. The branch for the Mechanism for the International Criminal Tribunal for Rwanda commenced functioning on 1 July 2012 and the one for the International Tribunal for the Former Yugoslavia, on 1 July 2013. Paragraphs 14 and 15 of the report of the Secretary-General (A/68/188) contain the provisions relating to the terms and conditions, remuneration and benefits for judges of the Mechanism. Specifically, article 8 of the statute of the Mechanism states that the terms and conditions of service of the judges for each day on which they exercise their functions for the Mechanism shall be those of the ad hoc judges of the International Court of Justice. The terms and conditions of service of the President of the Mechanism shall be those of the judges of the International Court of Justice.

4. The review conducted by the Secretary-General covers both remuneration and other conditions of service of the members, judges, ad hoc judges and ad litem judges of these bodies. Conditions of service include the special allowance of the Presidents of the International Court of Justice and the Tribunals and the Vice-Presidents when acting as President; assistance with education costs; survivors' benefits; travel and subsistence regulations; relocation allowance; hardship factors; and retirement benefits.

Remuneration

5. In paragraphs 3 to 20 of his report, the Secretary-General provided background and information on the emoluments of the members and ad hoc judges of the International Court of Justice, the judges and ad litem judges of the Criminal Tribunals and the members and judges of the International Residual Mechanism for the Criminal Tribunals. In paragraph 47, the Secretary-General described the outcome of the present periodic review.

6. In paragraph 3 of his report, the Secretary-General indicated, inter alia, that pursuant to article 32 of the Statute of the International Court of Justice, each member of the Court shall receive an annual salary, and that the salaries and allowances shall be fixed by the General Assembly and may not be decreased during the term of office (see A/68/188). In addition, the statute of the International Tribunal for the Former Yugoslavia provides that the terms and conditions of service of the judges shall be as they are for the judges of the International Court of Justice, while the statute of the International Criminal Tribunal for Rwanda provides that the terms and conditions of service of its judges shall be the same as those of the judges of the International Tribunal for the Former Yugoslavia. Ad hoc judges of the International Court of Justice are compensated for each day they exercise their functions at a rate of one three-hundred-and-sixty-fifth of the sum of the annual salary payable to the

members of the Court. Ad litem judges of the Tribunals receive an annual salary prorated for length of service.

7. Since January 2007, the salaries of the members of the Court and the judges of the Tribunals have comprised an annual base salary with a corresponding post adjustment per index point equal to 1 per cent of the net base salary, to which is applied a post adjustment multiplier for the Netherlands or for the United Republic of Tanzania, as appropriate (see General Assembly resolution 61/262). In paragraph 19 of the report of the Secretary-General it is indicated that, as at 1 January 2012, the annual base salary of the members of the Court and the judges of the two Tribunals stood at $169,098. For the purposes of comparison, table 1 of the report presents information on the evolution of the judges' salaries since January 2011. Annex I to the report contains data illustrating changes in the net remuneration of members of the International Court of Justice, as well as senior Secretariat officials and members of United Nations bodies for the period from January 2005 to January 2013. Annex II illustrates the movement in the salaries for senior officials in The Hague, including those at the level of Under-Secretary-General, the judges of the International Court of Justice and the Judges of the International Criminal Court.

8. On a related matter and upon enquiry, the Advisory Committee was informed that in the United Nations Secretariat it was the practice not to lower salaries, but to freeze them. It was indicated that this was not related to the judges per se but to staff in general. The Committee was further informed that in the *Kaplan* judgement, the United Nations Administrative Tribunal very early in its history made a distinction between contractual and statutory elements in the relations between the United Nations and staff members. The Tribunal stated that contractual elements could not be changed without the agreement of the parties, but that statutory elements might always be changed through regulations established by the General Assembly, with such changes being binding on the staff member. In the view of the Secretariat, among the contractual elements that could not be changed without the agreement of the two parties was the salary of the staff member.

9. The Secretary-General, in paragraph 47 of his report, proposed that no change be effected to the current system of remuneration for members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the International Residual Mechanism for Criminal Tribunals on the occasion of the present review. Should the General Assembly approve the recommendations of the Secretary-General, the Advisory Committee notes that the standards for the costing of the remuneration in the proposed budget for the biennium 2014-2015 would remain at the level of the revised 2012-2013 appropriations and would not entail additional resource requirements (see A/68/188, para. 53). **The Committee has no objection to the proposal made by the Secretary-General.**

Other conditions of service

10. In paragraphs 21 to 46 of his report, the Secretary-General set out the other conditions of service of the members and ad hoc judges of the Court, the judges and ad litem judges (where applicable) of the two Tribunals and the President and judges of their Residual Mechanism. These include a special allowance of the Presidents and of the Vice-Presidents when acting as President, assistance with education costs, the

survivors' benefit, travel and subsistence regulations, relocation allowances, issues related to the hardship classification of the duty station and retirement benefits. In addition, table 2 of the report sets out a one-time ex gratia payment schedule for ad litem judges of the International Criminal Tribunals, pursuant to the terms of resolution 65/268, in which the Assembly decided to grant the entitlement for such payments upon completion of service for those ad litem judges who had served for a continuous period of more than three years. Annex III of the report contains a comparison of conditions of service and compensation between members, judges and ad litem judges across all the entities under consideration.

11. In paragraphs 48 to 51 of the report, the Secretary-General proposes that no changes be effected to these allowances and conditions of service on the occasion of the periodic review. Should the General Assembly approve the recommendations of the Secretary-General, the Advisory Committee notes that the standards for the costing of these items in the proposed budget for the biennium 2014-2015 would remain at the level of the revised 2012-2013 appropriations and would not entail additional resource requirements.[1] **The Committee has no objection to the proposal made by the Secretary-General.**

12. In paragraph 55 of his report, the Secretary-General indicated that, in view of the three-year cycle re-established for the review of the conditions of service and compensation for the members of the Court, the judges and the ad litem judges of the two Tribunals, pursuant to General Assembly resolution 65/258, the next comprehensive review will be undertaken at the seventy-first session of the Assembly. **The Advisory Committee continues to believe that the three-year review cycle, established by the Assembly in its resolution 45/250 A, is the appropriate one.**

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[1] With the exception of the financial implications arising from any actions taken on the proposals of the Secretary-General on a pension scheme for the members of the International Court of Justice and the judges of the two Tribunals.